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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,958	06/25/2003	Paul Edmund Baker	CM2679M	3079
27752	7590	01/19/2005	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			RAO, SHEELA S	
		ART UNIT		PAPER NUMBER
		2125		
DATE MAILED: 01/19/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>	
	10/603,958	BAKER ET AL.	
	Examiner Sheela Rao	Art Unit 2125	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply:**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 June 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-28 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/26/03 &amp; 11/05/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

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#### **DETAILED ACTION**

1. Claims 1-28 are pending and presented for examination.
2. Applicant's submission of references on form PTO-1449 has been considered. A signed copy of the form is attached.
3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the United Kingdom on June 26, 2002. It is noted, however, that applicant has not filed a certified copy of the 02-254475.3 application as required by 35 U.S.C. 119(b).

#### ***Drawings***

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: elements 2, 4, 6, 8, 10, and 12 as labeled in Figures 8-12.. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

#### ***Specification***

5. The disclosure is objected to because of the following informalities:  
There is no explanation of each of the drawing figures submitted. Specifically, there is no mention and/or discussion of Figures 2-7; and the elements shown in Figures 8-12 are not identified and explained. The disclosure is devoted to the explanation of Figure 1. Examiner realizes that Figure 1 is

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the crux of the invention and thus is detailed in explanation. However, the additional drawing figures are present and should be referenced for clarity.

Additionally, in the disclosure the elements that are discussed need to be associated to their corresponding figures. See page 8, beginning at line 29, a micro-processing system is described. As the paragraph continues, reference is made to element no. 6, but which figure is being described is not known. The same reasoning applies to page 9, line 14. It should be noted that these are just a few examples of many more instances. Applicant is advised to review the disclosure in detail in order to address all the deficiencies.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. Claim 17 recites the limitation "said information is transmitted" in lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim. Claim 1, from which claim 17 depends, discloses the inputting of two types of information; to which type of information claim 17 is referring is not clear.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saita et al. (USPN 6,719,565 B1).

The patented invention by Saita teaches of a hair color advice system which enables the user/customer to input his/her image into the system and builds a simulated image with changes in hair

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color and displays the results. In addition, the system makes suggestions regarding the hair dye needed to achieve the color desired.

Saita discloses an invention similar to that of the claimed instant invention. As per instant claims 1, 12, 18, and 25, the reference of prior art states the use of a computer system that serves as a memory means into which data is input, stored, and processed. The data is then used to simulate or predict the likely result and a monitor is present for display purposes. See col. 2:ll. 53-67.

With regard to instant claim 2, wherein the substrate and product are claimed to be hair and hair dyes, respectively, the invention by Saita is dedicated to the hair and hair cosmetics. As per instant claim 3, as can be seen in Figure 1 of the reference, an array of simulated hair colors are displayed. Furthermore, Figure 5 shows the results of various representative colors with the image of the user. See col. 4: ll. 53-67.

The monitor used by Saita and depicted in Figures 2-5 teaches the use of a computer screen or monitor for displaying the colors, as per instant claims 4, 6, 11, 16, 22, and 23.

The use of an interactive screen as per instant claims 5, 10, 16, 21, and 27, is not particularly taught and/or suggested by the patented reference to Saita. As applicant states in the instant disclosure at page 4, line 32, “[t]he computer screen may be a conventional or interactive screen ...”. Saita uses a conventional computer screen in the patented system, but the use of an interactive or touch screen would have made the patented system more convenient and smaller in size. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used an interactive or touch screen with the automated hair color advice system as disclosed by Saita so as to make a more adept and compact advice system.

The use of a mirror for reflecting the substrate as claimed by instant claims 7 and 24 is not taught or suggested by the reference of prior art. Examiner reminds Applicant of the environment wherein such a device as that has been claimed and of the reference would be used, i.e. cosmetic station in a department store or a drug store, etc. In all or any of these type of environments, a mirror would be readily obtainable. Furthermore, most consumers that would be shopping for such products would also have a mirror with them, i.e. in their bag or purse. Thus, the availability of a mirror is well known and

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available. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a mirror or reflecting device for sake of convenience and efficiency.

With regard to the limitations of instant claims 8, 13, 14, and 15, wherein the predetermined set of colors is listed and displayed, Saita teaches this information as being listed in a set of a plurality of characteristics of the dye before and after the application of such dye. See patented claim 6.

The use of a electro-mechanical device as per instant claims 9, 20, and 26 is not particularly taught by Saita, however the patented reference uses a computer system which could be modified to use an electro-mechanical device, such as a stylus or light pen, or touch buttons. However, the use of a keyboard or mouse enables similar results as an electro-mechanical device as taught by Saita. It would have been obvious to one of ordinary skill in the art at the time the invention was made to included electro-mechanical devices for purposes of simplicity and efficiency.

As per the limitations of instant claims 17 and 19, wherein the use of bar codes on packages for transmitting information is claimed. Saita does not teach the use of bar codes or bar code reading devices, however it is stated that data regarding available hair dye products is inputted into the database for use with the advice process. Furthermore, the use of a scanner is also taught. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the scanning device to include the transmission of bar codes.

With regard to the means for displaying information relating to the coloring product capable of achieving the users desired results, Saita teaches this at column 5, beginning at line 13. The patented system suggests a possible hair dye using the data which is accumulated in the database. Then the computer system outputs the product information for the users perusal.

For the reasons stated above, the limitations of the claimed invention is taught by the prior arts of record; thereby, rendering the instant claims unpatentable.

#### **C. Inclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Munetsugu et al USPN 6,141,43  
teaches an image processing apparatus for selecting hair and shade of hair

Kagami et al. USPN 6,665,686 B1  
teaches of a method and apparatus for analysis judgement

Agnew USPN 6,583,792 B1  
teaches a system and method for superimposed images

Grayson et al. USPN 4,160,271  
teaches a cosmetic selection system

Steir et al. USPN 5,060,171  
teaches an image enhancement system in a kiosk environment

Marapane et al. USPN 6,707,929 B2  
teaches a method for analyzing hair and predicting achievable hair dyeing ending colors

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela Rao whose telephone number is (571) 272-3751. The examiner can normally be reached Monday - Friday from 9:00 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard, can be reached on (571) 272-3749.

Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks  
Washington, D.C. 20231**

or faxed to:

**(703) 305-3718 for Official Communications**

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

  
Sheela S. Rao  
January 13, 2005



**LEO PICARD  
SUPERVISORY PATENT EXAMINER  
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